

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANTHONY M. LEO)
Petitioner,)
v.) 4:24-cv-40021-LEW
MATTHEW DIVRIS, Superintendent)
of North Central Correctional)
Institute)
Respondent.)

ORDER AFFIRMING RECOMMENDED DECISION

On November 14, 2024, United States Magistrate Judge John C. Nivison filed with the court, with copies to the parties, his Report and Recommended Decision (ECF No. 44) on Defendant's Motion to Dismiss (ECF No. 34) and Petitioner's Motion for Hearing to Show Cause (ECF No. 38). Magistrate Judge Nivison recommends that neither an evidentiary hearing nor a show cause hearing is warranted and that dismissal of Petitioner's 28 U.S.C. § 2254 petition is warranted given the considerable passage of time that renders the petition untimely. The Petitioner, who is proceeding pro se, filed a timely Objection to the Recommended Decision (ECF No. 48).

I have reviewed and considered the Recommended Decision, the Objection, and the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States

Magistrate Judge for the reasons set forth in the Recommended Decision, and determine that no further proceeding is necessary.

It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED and ADOPTED (ECF No. 44). Defendant's Motion to Dismiss is GRANTED (ECF No. 34).

The motion for habeas relief under 28 U.S.C. § 2254 is DENIED and DISMISSED and Petitioner's Motion for a Hearing to Show Cause is DENIED (ECF No. 38).

It is further ORDERED that no certificate of appealability will issue from this Court because the Petitioner has not made a substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C.A. § 2253(c)(2).

SO ORDERED.

Dated this 12th day of February, 2025.

/s/ Lance E. Walker
Chief U.S. District Judge